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Attorneys for Defendants

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

FRIENDS OF ANIMALS,

Plaintiff,

v.

RYAN ZINKE, in his official capacity
as Secretary of the United States
Department of Interior; *et al.*,

Federal Defendants.

CASE NO. 1:18-cv-00064-SPW-TJC

**STIPULATION AND
PROPOSED JOINT CASE
MANAGEMENT PLAN**

The Parties in the above captioned matter, by and through their undersigned counsel, hereby submit the following Stipulation and Proposed Joint Case Management Plan. In support of this Stipulation and Proposed Joint Case Management Plan, the Parties hereby agree and state as follows:

1. This case is a civil action for declaratory and injunctive relief against Federal Defendants brought under the Endangered Species Act, 16 U.S.C. §§ 1531-44, and the Administrative Procedure Act, 5 U.S.C. §§ 701-06.

2. Because this case will be resolved through briefing on the merits (cross-motions for summary judgment, as outlined below) and the Court's review of an agency's administrative record, discovery and trial are not appropriate. Fed. R. Civ. P. 26(a)(1)(B)(i). If Plaintiff files any motion for discovery, Federal Defendants reserve their right to oppose any such motion(s) and their right to seek discovery on equal terms if any such motion is granted.

3. This case is not suitable for an alternative dispute resolution program such as arbitration, mediation, or judicial settlement conference. The Parties have conferred about the prospect of settlement, and conclude that settlement is not likely, but hereby agree to continue their informal settlement discussions, as appropriate, and to promptly notify the Court if any settlement agreement is reached.

4. The Parties respectfully request that the Court issue an order approving the following briefing schedule:

A. Federal Defendants shall file an Answer to Plaintiff's Complaint for Declaratory Judgment and Injunctive Relief (ECF No. 1) by June 15, 2018.

B. Federal Defendants shall file notice of their lodging of the administrative record (“record”) by September 17, 2018. The record, which will be compiled with electronically searchable formatting and bates-numbered pages, will include a hyperlinked index and be provided on a digital video disc (“DVD”) to the Court and all counsel of record via overnight mail on September 14, 2018.

C. By November 1, 2018, Plaintiff shall either: (1) notify Federal Defendants that it has concerns with the sufficiency of the record; or (2) notify the Court and Federal Defendants that it does not intend to challenge the sufficiency of the record.

D. If Plaintiff has concerns with the sufficiency of the record, the Parties hereby agree to endeavor to informally resolve any such issues and/or disputes. Should the Parties’ efforts prove unsuccessful, Plaintiff shall file any motion to compel completion or supplementation of the record by December 17, 2018; Federal Defendants shall file any response by January 31, 2019; and Plaintiff shall file any reply, by March 4, 2019. If the Court grants any motion to compel completion or supplementation of the record, Plaintiff shall file its motion for summary judgment within 45 days of Federal Defendants’ compliance with any Court order requiring completion and/or supplementation of the record.

E. If, pursuant to Paragraph 4C, Plaintiff notifies Federal Defendants that it does not intend to challenge the sufficiency of the record, Plaintiff shall file its motion for summary judgment within 45 days of November 1, 2018 (*i.e.*, December 17, 2018).

F. Federal Defendants shall file their combined response and cross-motion for summary judgment within 45 days of Plaintiff's deadline to file its motion for summary judgment.

G. Plaintiff shall file its combined reply in support of its motion for summary judgment and response within 30 days of Federal Defendants' deadline to file their response/cross-motion for summary judgment.

H. Federal Defendants shall file their reply in support of their cross-motion for summary judgment, within 30 days of Plaintiff's deadline to file its reply/response.

I. If either party has good cause for requesting an extension of any of the above stipulated deadlines, counsel for the parties shall confer in a good faith attempt to file a stipulated or unopposed motion rather than an opposed motion for an extension of time.

Respectfully submitted this 11th day of June, 2018.

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/s/ Mele Coleman

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CERTIFICATE OF SERVICE

I certify that on June 11, 2018, the foregoing will be electronically filed with the Court's electronic filing ("ECF") system, which will generate automatic service upon on all counsel of record enrolled to receive such notice.

/s/ Mele Coleman

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